

EDGAR N. RAPISORA, PETITIONER, VS. CIVIL SERVICE COMMISSION, RESPONDENT.*G.R. No. 107330. December 17, 1993*

Ponente: PADILLA, J.

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This petition for certiorari with mandamus seeks to set aside Resolution No. 92-1214 dated 3 September 1992[1] of the respondent Civil Service Commission denying petitioner's motion for reconsideration of the Commission's Resolution No. 92-699 dated 26 May 1992[2] which disapproved the permanent appointment of petitioner as Provincial Health Officer I, Integrated Provincial Health Office, Benguet Province. The dispositive part of Resolution No. 92-699 reads as follows:

"WHEREFORE, premises considered, the Commission resolves that: the appointment of Dr. Edgar N. Rapisora as Provincial Health Officer I, Integrated Provincial Health Office, Benguet be disapproved; and, the action of Director E. Tadle-Herrera of CSC-DOH be set aside." [3]

Petitioner was the Chief of Hospital of the Kalamansig District Hospital in the Province of Sultan Kudarat, Mindanao, when he learned that the position of Provincial Health Officer I of Benguet would become vacant. He forthwith applied for the said position. A committee was created by the Department of Health to screen applicants for the vacant positions in the Department including the position applied for by petitioner.

On 5 November 1991, then Secretary of Health, Honorable Alfredo R. A. Bengzon designated herein petitioner as officer-in-charge of the Office of the Provincial Health Officer I, Integrated Provincial Health Office of Benguet.[4] Thereafter, he was extended a permanent appointment, by transfer with promotion, on 24 December 1991.[5] Petitioner actually assumed the duties of the position on 2 January 1992.

When petitioner assumed office as Provincial Health Officer I on 2 January 1992, the new Local Government Code had taken effect on 1 January 1992, for which reason respondent, through Director E. Tadle-Herrera, CSC-DOH, returned to the Secretary of Health petitioner's appointment calling the Secretary's attention to Section 463, Chapter 2, Title IV of the Local Government Code of 1992.[6] Hence, the Secretary of Health, Honorable Antonio O. Periquet who had succeeded Secretary Alfredo R.A. Bengzon, wrote Benguet Governor Andres R. Bugnosen seeking his concurrence in the appointment of petitioner and informing the Governor that the Department of Health after a formal screening and evaluation by its executive committee believed that petitioner was the most appropriate person to assume the position in question. Governor Bugnosen concurred with the petitioner's appointment.[7]

On 3 April 1992, petitioner's appointment was approved by the Field Officer of the respondent, Director E. Tadle Herrera as TEMPORARY, "(P)ending promulgation of the guide-lines on who will be the appointing authority pursuant to the Local Government Code of 1991." [8]

Petitioner appealed to respondent Commission, seeking reconsideration of his appointment from temporary to permanent which was the appointment extended to him by the Secretary of Health. Respondent instead set aside

the action of Director E. Tadle-Herrera and entirely disapproved petitioner's appointment on the ground that he did not possess a Certificate/Master in Public Health/Hospital Administration which is the educational requirement for the position at the time of appointment, in accordance with DOH qualification standards. Moreover, according to respondent, the Local Government Code of 1992 already took effect when petitioner assumed office on 2 January 1992, so that in accordance therewith, the Provincial Health Officer I should be appointed by the local chief executive concerned with the concurrence of a majority of all the members of the Sanggunian, subject to Civil Service law.

The issues raised in the present petition[9] may be simplified to whether or not respondent Civil Service Commission committed grave abuse of discretion in dis-approving petitioner's permanent appointment as Provincial Health Officer I of Benguet Province.

We find the petition meritorious.

Petitioner was extended a permanent appointment even before the Local Government Code took effect, after he went through a rigid interview by the Executive Committee created by the Department of Health to screen applicants for available positions in the Department. Under DOH qualification standards for the position of Provincial Health Officer I, the appointee must meet the following requirements:

“Education: Doctor of Medicine with a certificate/Master in Public Health/Hospital Administration

Experience: 5 years experience in planning, organizing, directing, coordinating and supervising various public health and medical activities.

Eligibility: RA 1080 (Physician)”[10]

True enough, petitioner did not possess a Certificate/Master in Public Health/Hospital Administration at the time of his appointment. Apparently then Health Secretary Bengzon decided that petitioner's other qualifications, such as, his training and experience in hospital administration offset or made up for his deficiency in educational requirement. Prior to his appointment to the position in question, petitioner held the position of Chief of Hospital, Kalamansig District Hospital, Kalamansig, Sultan Kudarat. In addition, while in foreign employment from 1976 to 1985, he served as officer-in-charge of two (2) general hospitals in Nigeria and attended seminars, symposia, workshops, clinical conferences, and trained newly-graduated Nigerian physicians in general surgery. These training and experience must have been taken into account by Health Secretary Bengzon when he extended a permanent appointment to petitioner, which appointment his successors, Honorable Antonio O. Periquet and the incumbent Honorable Juan M. Flavio, also recommended for approval by the Civil Service Commission.

Respondent finds untenable petitioner's contention that his deficiency in educational requirement (Master in Public Health/Hospital Administration) can be offset by his training and experience. It maintains that petitioner should at least have earned for himself some units or started pursuing such particular educational requirements as allegedly required by the rule on substitution.

We do not agree. This rule cannot be strictly interpreted as to curtail an agency's discretionary power to appoint as long as the appointee possesses other qualifications required by law.

Recently, this Court held:

“It would be appropriate to state at the outset that when necessary, education, experience or training may be used interchangeably to offset deficiencies (in fact, the CSC issued Memorandum Circular No. 23 series of 1991 expressly allowing the offsetting of deficiencies except the required eligibility). The necessity exists if the appointee's training or experience is of such a level that the same would more than supplement the deficiency in education considering the demands of the position in question. The converse holds true if the appointee's

deficiency is in the required training or experience. The decision as to when the conditions give rise to a necessity to interchange education with experience and vice-versa rests upon the sound discretion of the appointing authority. This is not to be viewed as an unbridled license given to the appointing authority to appoint whomsoever he desires. This is rather a recognition of the fact that the appointing authority is in the best position to determine the needs of his department or agency and how to satisfy those needs. Moreover, it is precisely the province of the QS to provide the gauge by which the appointing authority shall exercise his discretion. The QS has been defined in Section 20, PD 807 as expressing the minimum requirements for a class of position in terms of education, training and experience, civil service eligibility, physical fitness and other qualities required for successful performance. It is, thus the QS which provides for the considerations upon which the appointing authority decides when the levels of education or experience may be sufficient to offset each other.”[11]

As repeatedly ruled by the Court, the Civil Service Commission is not empowered to determine or change the kind or nature of the appointment, for it is an essential discretionary power and must be performed by the officer on whom it is vested according to his best lights, the only condition being that the appointee should possess the minimum qualification required by law. In the case at bench, then Secretary of Health, Honorable Alfredo R.A. Bengzon, and his successors, Honorable Antonio O. Periquet and Hon. Juan M. Flavie, believe that petitioner possesses the necessary qualifications required by law for the position.

It is worthy to note that respondent Commission had approved the appointment of a former Public Health Officer I in Benguet, Dr. Emilio B. Cadayona, who at the time of his appointment in 1988 did not also possess a Certificate/Master’s degree in Public Health/Hospital Administration but, like petitioner, was a holder of the Degree of Doctor of Medicine. The Court suggests that respondent look more closely into its own resolutions and be consistent in resolving the qualifications of appointees.

WHEREFORE, the petition is GRANTED. The Court sets aside Resolution No. 92-699, dated 26 May 1992, and Resolution No. 92-1214, dated 3 September 1992 of respondent Civil Service Commission, and orders the respondent Commission to approve petitioner’s permanent appointment as Provincial Health Officer I, Integrated Provincial Health Office, Benguet Province.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quason, Puno, and Vitug, JJ., concur.

[1] Annex “A”, pp. 33-36, Rollo

[2] Annex “B”, pp. 37-39, *ibid.*

[3] p. 39, *ibid.*

[4] Annex “G-1”, p. 52, *ibid.*

[5] Annex “C”, p. 40, *ibid.*

[6] Section 463 enumerates the Provincial Officials in general, one of which is a provincial health officer.

[7] Annex “C”, p. 40, *ibid.*

[8] Annex “C-1”, p. 41, *ibid.*

[9] I-The Civil Service Commission erred in disapproving the appointment of herein petitioner, Resolutions Nos.

92-699 and 92-1214 being contrary to law and jurisprudence, done with abuse of discretion amounting to lack of jurisdiction, so the Commission should be mandated to approve petitioner's appointment as issued by the Secretary of Health;

II-The Civil Service Commission erred in not using its investigative powers to determine the justification of petitioner's appointment;

III-The Civil Service Commission erred in not taking into account that once the aforestated resolutions become final and executory, and enforced, the petitioner, a permanent career civil service employee who was transferred to another job by way of promotion due to merit will loss (sic) a job which is the Commission's bounden duty to protect.

[10] Annex "C-1", supra

[11] Torio vs. Civil Service Commission, et. al., G.R. No. 99336; Espanola vs. Civil Service Commission, et. al., G.R. No. 100178, June 9, 1992, 209 SCRA 677.

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